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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

B5

[redacted]

DATE: MAY 21 2012 OFFICE: NEBRASKA SERVICE CENTER [redacted]

IN RE: Petitioner: [redacted]
Beneficiary:

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:

[redacted]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen with the field office or service center that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of $630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will summarily dismiss the appeal.

The petitioner seeks classification pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2), as a member of the professions holding an advanced degree. The petitioner seeks employment as a surgeon. The petitioner asserts that an exemption from the requirement of a job offer, and thus of a labor certification, is in the national interest of the United States. The director found that the petitioner qualifies for classification as a member of the professions holding an advanced degree, but that the petitioner had not established that an exemption from the requirement of a job offer would be in the national interest of the United States.

8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part, "[a]n officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal."

On the Form I-290B Notice of Appeal, counsel checked a box reading "My brief and/or additional evidence is attached." Counsel did not indicate that any future supplement would follow. Therefore, the initial appellate submission constitutes the entire appeal. The petitioner submitted no exhibits on appeal except for a copy of the denial notice.

The Form I-290B includes a space for the petitioner to "[p]rovide a statement explaining any erroneous conclusion of law or fact in the decision being appealed." Counsel states:

> We submit that [the petitioner] performs work that is national in scope and he has demonstrated a degree of influence in [the] field. In denying the case, the Service seems to imply that [the petitioner] is foremost a researcher and does not appear to consider that [the petitioner] is primarily a surgeon whose superior abilities have enabled him to act as a peer reviewer for 7 internationally ranked journals, work at one of the nation's top 10 hospitals for surgery, and share his expertise as an invited expert at international conferences in his field.

Counsel identifies nothing in the director's decision to support the above claims. The director identified the petitioner as being "enrolled in a surgical residency program" who "attended professional conference[s]." Furthermore, the director acknowledged that "[m]edical research itself is unquestionably national in scope," but found that the petitioner had not shown his current work to have national scope – thus demonstrably distinguishing the petitioner from one who is primarily a researcher.

In an accompanying statement, counsel states that the petitioner's "original contributions" and "distinctions" distinguish the petitioner from his peers. Counsel, however, does not elaborate or explain how the director failed to take the petitioner's previous evidence into consideration.

Counsel acknowledges that the medical societies to which the petitioner belongs do not require outstanding achievements, but states that "this is the norm." The director, however, did not raise the issue of the petitioner's memberships as a basis for denial. Counsel further asserts generally that the petitioner "has judged the work of even senior peers" and "has been indispensable" to the university department where he works. Counsel does not, however, allege any specific factual or legal errors or other deficiencies in the director's decision. Counsel merely asserts that, given the petitioner's (unspecified) achievements, the director should have approved the petition.

Counsel asserts generally that the petitioner "has made great contributions to the field . . . well attested to by both his peers with whom he has worked as well as independent testimonials from prominent members of the field at prominent institutions." The director, in the denial notice, acknowledged the witnesses' letters, but found them to be uncorroborated and insufficient to establish the petitioner's eligibility for the benefit sought. Counsel, on appeal, does not acknowledge this discussion or explain how the director's conclusions were deficient. Counsel asserts only that the letters establish the petitioner's eligibility.

In sum, counsel does not explain how the director failed to take the petitioner's previous evidence into consideration, or how the purportedly neglected factors would have established the petitioner's eligibility. Counsel does not allege any specific factual or legal errors or other deficiencies in the director's decision. Counsel, in effect, merely asserts that the director should have approved the petition, which is not a sufficient basis for a substantive appeal.

Because counsel has failed to identify specifically an erroneous conclusion of law or a statement of fact as a basis for the appeal, the AAO must summarily dismiss the appeal.

ORDER: The appeal is dismissed.